

Mr. Chairman and Members of the Committee:

The Teamsters Union represents hundreds of thousands of workers who make their living driving on our nation's roads, whether they be interstate highways or city streets. It is imperative to make their workplace as safe as that of any steel mill or auto plant. To do that, it takes the cooperation of the employer, their workers, and the federal and state governments, who are responsible for enforcing our nation's safety laws.

Department of Labor statistics show that transportation workers are employed in one of the most dangerous of all occupations. In 1997, 1,145 transportation workers died from occupational injuries - an increase from the 1,024 transportation worker fatalities the previous year. About 85 percent of those workers were employed in the motor carrier and transit industries. In 1997, according to the National Highway Traffic Safety Administration (NHTSA), 4,871 trucks were involved in fatal accidents, compared to 4,755 in 1996. Those accidents produced 5,355 fatalities in 1997 compared to 5,142 in 1996. While it can be argued that more trucks are on the highways and the fatal crash involvements and fatalities are slightly lower per 100 million VMT, those numbers alone are too high. We have to find ways to significantly reduce truck accidents and related fatalities. To do that, we have to understand what causes them and address those problem areas.

The Department of Transportation and the Congress will face major regulatory and legislative initiatives this year that greatly impact the trucking industry. The Federal Highway

Administration is moving forward with a revision in hours-of-service regulations; the House will soon take up the hazardous materials reauthorization; and a recently released draft of the Truck Size and Weight Study may initiate a review of those relevant statutes by Congress. This is

clearly a time to have objective, unbiased and impartial people making decisions at the Department of Transportation's Office of Motor Carriers and Highway Safety (OMC). It is also a

time to have an Office of Motor Carriers, whether as part of another agency or as an independent entity, that focuses solely on inspection, enforcement and highway safety, not construction and maintenance of highways or vehicle safety design.

## **PROBLEMS AT OMC**

There has been much publicity concerning the recent Inspector General's report, which detailed actions taken by certain OMC personnel to lobby on behalf of the trucking industry. Those actions are inexcusable and severely undermine the credibility of the entire department as a watchdog of the industry. It shakes the confidence of all of us who rely on OMC to carry out their functions in overseeing the motor carrier industry. The Inspector General's report obviously lends credence to the perception that the Office of Motor Carriers has not maintained the proper "arms length" distance from the industry. While Secretary Slater has taken proper action to reassign those personnel involved in this incident, there are deeper problems at OMC that warrant this Committee's attention.

The fact that safety compliance reviews have decreased, Level 1 inspections are down, and prosecutions are at a ten-year low, while fatalities involving commercial trucks has somewhat remained stagnant over the last few years, points to the fact that changes must be made to improve the functions of the agency.

But what changes will be most effective in improving truck safety? Packing up an entire agency of 700 people and moving it to a different agency without first analyzing what is wrong with it and fixing it, may very well result in a worse situation.

The Teamsters Union would suggest that what's needed is a major attitude adjustment at OMC. The office needs to return to its basic mission: that of a regulatory and enforcement agency. It cannot effectively regulate an industry as a "consultant" or partner to motor carriers. Strong leadership at the top needs to break the logjam of rulemakings that remain uncompleted or are years overdue. These give one the impression that OMC cannot or is unwilling to make the tough decisions necessary to carry out its core responsibilities. Two of those rulemakings relate to mandatory training standards for commercial drivers, something we think will go a long

way toward improving truck safety.

If you look at enforcement activities at OMC in the last few years you will find that compliance reviews have fallen by 50 percent from a high in 1991 of 12,337 to 6,073 in 1997. According to the Commercial Vehicle Safety Alliance (CVSA), Level 1 inspections (a 27 step process) have fallen off in favor of Level 2 (walk-around) and Level 3 (driver only) inspections. And while the federal government has prosecuted trucking companies for flagrant violations in a few highly visible cases recently, statistics show that prosecutions by the federal government have dropped to the lowest level since 1989. Most of you will remember the highly visible case of Gunther's Leasing Transport in Maryland. While the owner of the company finally went to jail, the case is illustrative of the degree to which OMC allowed a flagrant violator to continue operating. It took the involvement of an Assistant U.S. Attorney to uncover the fact that Gunther's management was falsifying logbooks and forcing drivers to do the same. It was found that 80-90% of the logbooks were fraudulent. Yet even after charges were filed and the owner was being prosecuted in court, the OMC failed to exercise its authority to shut down the company. The OMC must stop negotiating down fines, and be more aggressive in shutting down carriers for repetitive violations.

## **NAFTA CROSS-BORDER TRUCKING**

The problems at OMC could not have come at a worst time. By January 2000, the United States faces the invasion of hundreds of thousands of Mexican trucks under the NAFTA cross-border trucking provisions. Are we ready to certify to the American public that highway safety will not be compromised? Certainly not!

As this Committee well knows, the Inspector General's Report on Motor Carrier Safety Program for Commercial Trucks at U.S. Borders showed that almost 50% of the Mexican trucks that are inspected have serious enough safety violations to be declared out-of-service. It indicates that "far too few trucks are being inspected at the U.S.-Mexican border, and that too few trucks comply with U.S. standards." Of the 3.5 million Mexican trucks that crossed into the commercial zones in 1997, less than 1% were inspected.

With the exception of California, there are no dedicated inspection facilities at the border. Inspection stations, and I use that term loosely, occupy borrowed space in the Customs Service compound. At most crossing points, there is only enough room to park three or four trucks out-of-service. After that, inspections stop or Mexican trucks with visible safety violations are sent back to Mexico. Or at least that's the idea. Unfortunately, the turn-around point is in the U.S., out of sight of the inspectors, so there is no assurance that these Mexican trucks do turn around.

The report also blames the FHWA for its lack of leadership in guiding the states to develop a plan that would provide the proper inspection facilities and enforcement personnel at the border. The audit report concludes that "the FHWA does not have a consistent enforcement program that provides reasonable assurance of the safety of Mexican trucks entering the United States. Furthermore, should the moratorium on cross-border trucking be lifted in the near term, the FHWA is not ready to reasonably enforce U.S. safety regulations on Mexican carriers."

The fact that we could have another four million foreign trucks entering the U.S. if and when the border is open warrants an even more serious look at the problems plaguing OMC.

I want to also address the issue of the application process for granting of authority for Mexican trucking companies to operate in the United States. The Teamsters Union has filed an action in District of Columbia Circuit Court, *IBT v. U.S.*, D.C. Cir. Dkt. No. 95-1603, challenging the legality of application forms used in determining if a Mexican carrier "was willing and able to comply with ... any safety regulations", that is, to meet all driver and vehicle safety standards in the U.S. The application amounts to a "check off the box" system that merely asks the carrier if it is safe. That is grossly insufficient in light of the current out-of-service rates for Mexican trucks, but also begs the question if we are doing enough to screen new U.S. entrants into the industry that have no history of following procedures and practices that allow the safe operation of their trucks. Should the procedure for granting operating authority for new carriers be revised? Is there a correlation between new entrants and higher accident rates? These are issues that warrant further scrutiny by the Department of Transportation.

**FEDERAL MOTOR CARRIER ADMINISTRATION**

The idea for creating a Federal Motor Carrier Administration is not new. Several proposals have been introduced through the years, usually when Congress finds the need to direct greater attention on motor carrier safety. For one reason or another, this idea has never come to fruition, but perhaps it is time to give this matter serious consideration. Under the FHWA's reorganization plan, it would appear that the Office of Motor Carriers' standing has been downgraded. The once Associate Administrator for Motor Carriers is now a Program Manager who reports to the FHWA Executive Director rather than the Administrator. In addition, the OMC was merged with the Office of Highway Safety, so the Program Manager supposedly has greater responsibility but less authority. We also question the effectiveness of closing five of the agency's regional offices under the reorganization plan when we believe there is a need for a greater enforcement presence.

The motor carrier industry has grown rapidly in the past two decades. In 1980, for example, there were 165,000 interstate motor carriers and 3 million drivers subject to federal motor carrier safety regulations. Today there are over 475,000 interstate truck and bus companies, 7 million registered vehicles, and over 9 million commercial drivers. The trucking industry generates almost \$350 billion in annual revenues and controls 86% of the nation's freight business, according to industry sources. That dwarfs the maritime, railroad and airline industries, which all have dedicated administrative agencies. The sheer numbers make a valid argument for the establishment of a separate agency with an administrator of high enough stature to have a seat at the table where major transportation policy is decided and more importantly, to have the standing to effect change when it is needed. With that, we must repeat what we said earlier -- that any movement of OMC to another agency or as a stand-alone office must be preceded by changing what is presently wrong at OMC.

## **ADVISORY COMMITTEE**

While looking at ways to effect change at OMC and to be assured that the agency does not fall victim to the same type of "influence" from the industry as currently exists, the Teamsters

Union suggests that the Committee look at other agencies charged with enforcement authority. For example, the Occupational Safety and Health Administration relies on the National Advisory Committee on Occupational Safety and Health (NACOSH) for feedback regarding its policies and procedures. The NACOSH was established under Section 7(a) of the OSHA Act of 1970 to advise the Secretaries of Labor and Health and Human Services on matters related to administration of the Act. The committee is composed of 12 members: four public representatives; two labor representatives; two management representatives; two occupational safety and two occupational health representatives. The committee members serve two-year terms and meet periodically to review such actions as the drafts and status of rulemakings, enforcement activities and future priorities for the agency. These activities allow us to provide feedback to the agency, understand the logic behind agency actions and provide stakeholders an opportunity to have dialogue with policy makers. NACOSH could serve as a model for a similar committee to review policy and performance and advise the Office of Motor Carriers.

## **ACCIDENT CAUSATION/INVESTIGATION**

To improve motor carrier safety and significantly reduce the number of truck-related accidents and fatalities, we have to have more reliable data to better understand what causes these accidents. Data bases are only as good as the information that goes into them. That information must be timely and accurate, but we currently lack specific data that would help us determine the true causes of accidents. More focus needs to be put on accident investigation and the training of specialists in this area. Both the Department of Transportation's Inspector General and the General Accounting Office testified recently as to the need for states to improve their reporting of large truck accidents because of the reliance of OMC's SafeStat, its safety status measurement system for targeting high-risk carriers for compliance reviews, on data from its Motor Carrier Management Information System (MCMIS). According to IG and GAO testimony, states are not reporting a large percentage of truck crashes to MCMIS. Perhaps the Bureau of Transportation Statistics, or a similar umbrella agency, should be charged with the review of the data bases affecting motor carrier safety, including working with the states and other entities that supply

information to develop systems for more timely, accurate and complete data entry and retrieval.

We do know that several factors contribute to large truck crashes, including errors on the part of car and truck drivers, truck driver fatigue, and mechanical defects. Errors by car drivers are cited much more frequently as contributing factors to crashes between cars and trucks than errors by truck drivers. But rather than assign blame, we think it would be more productive to analyze these contributing factors and work toward ways to eliminate them.

## **FATIGUE AND HOURS OF SERVICE**

As most of you know, truck driver fatigue was identified as the number one issue affecting the safety of motor carriers at the National Truck and Bus Safety Summit in 1995.

Yet as we approach the new millennium, we do not appear any closer to revising the hours-of-service regulations. The Teamsters Union does not believe that driving time for truck drivers should be increased. In fact, the current eight-hour rest period does not allow drivers sufficient time to rest and take care of other personal business. Therefore, off-duty time should be increased. Studies show that under the current regime, drivers only manage about five and one-half hours of sleep. The cumulative affect of lack of sufficient rest is well-documented, and those that would advocate increasing the driver's time behind the wheel are ignoring the science of fatigue and the contributing factor it plays in accidents.

This hours-of-service issue allows us to demonstrate to the Committee the concerns that we have about the allegations of "coziness" of OMC with the trucking industry. It was recently brought to our attention that under a Federal Register notice of April 6, 1998, the FHWA initiated a pilot program testing GPS technology for monitoring Record of Duty Status (RODS) and therefore, Hours-of-Service (HOS) compliance. Werner Enterprises, Inc. was the sole participant in the paperless log system under a Memorandum of Understanding (MOU) executed on June 10, 1998.

Apparently, OMC has allowed Werner Enterprises to now operate in violation of hours-of-service regulations. For whatever reasons, drivers in the pilot program are exceeding current HOS regulations because "truck movement of less than 15 miles with a trailer (25

without) is not recorded as driving time, and second, that speed calculated at less than 20 mph is not considered valid." The only current exceptions to HOS regulations are clearly established under 49CFR Section 395.1, which allows extending driving hours under adverse driving conditions or under emergency conditions. No Federal Register notice indicated an exemption from HOS regulations

for this pilot program, nor were procedures followed for any exemption as required under Section 4007(c)(1) of TEA-21. Not only do these exemptions destroy the value of any information generated by the pilot program, they would permit drivers of trucks caught in beltway traffic congestion, traveling under 20mph, for example, to record lower HOS in what could truly be a more stressful and fatigue-producing scenario.

## **THE TRUCK DRIVER**

Cars and trucks must share the road in the safest manner possible. That means a recognition on the part of drivers of both types of vehicles that they are responsible for their own and each other's safety. We believe that education and outreach programs that educate car drivers about how to safely share the road with large trucks, and about trucks' longer stopping distances, blind spots and reduced maneuverability, are constructive. For those that would portray these activities as shifting blame or the responsibility of safety away from truck drivers, we would point to statistics showing that errors on the part of car drivers are cited most frequently as contributing to large crashes. Rather than pointing fingers at one another, we all need to join in efforts to better train our drivers and educate the public about driving safely with trucks on the road.

The average age of the Teamster freight driver is approximately 49 years old. He has an average of 20 years of driving experience and is very well trained. He works for an established company and is part of an extremely stable workforce in an industry that has a considerable amount of turnover. In the unlikely event that a Teamster driver was instructed to violate a DOT regulation, this union driver has additional protections above and beyond those afforded to his



non-union counterpart. The Teamster driver is protected by contract language that supplements and improves upon the requirements of the law. In the event that he/she is terminated for refusal to violate a safety regulation, the driver has two options available: the grievance procedure which usually expedites the driver's reinstatement; or the federal whistleblower protections under Section 405 of the Surface Transportation Assistance Act. Section 405 is enforced by OSHA and could take up to a year for a decision, a consideration that a non-union driver may think about before registering a complaint. Statistics have shown that these decisions rarely favor the driver. Unfortunately, this is the only procedure that non-union drivers can pursue should they be terminated for refusing to violate a DOT regulation. Because of their contract, Teamster drivers are not under the same pressures from unscrupulous shippers or dispatchers to ignore HOS and other safety regulations as are non-union drivers.

Even the hotline that OMC was required to implement under provisions of TEA-21 is an unrealistic and unusable reporting tool. By way of a recorded message drivers are directed to either obtain the complaint form from the Internet (the complaint form does not even contain the address of where it is to be mailed) or to leave a message and their call will be returned between regular business hours of 9:00 a.m. to 5:00 p.m. Most drivers are not near telephones with any regularity during these hours and probably do not have easy access to the Internet. The Teamsters Union has modified the complaint form to include the address and fax number of the location where the form should be submitted. DOT should do the same.

One of the suggestions made by the Inspector General at DOT called for increasing driver accountability by requiring inspections similar to those conducted by pilots before takeoff, allowing authorities to penalize both the driver and the company for out-of-service violations concerning a vehicle's condition. I would caution the Committee that drivers not afforded the additional protections of a union may be reluctant to buck the company and be forced by their employer to drive a truck that may be declared out-of-service.

## **CONCLUSION**

If we are to work together to reach the goals that FHWA and OMC have set for reducing

fatalities involving truck crashes, then we must emphasize increased driver training, better enforcement of current regulations, increased Level 1 inspections and compliance reviews, greater attention to the accuracy, timeliness and completeness of data into safety analysis systems, and continued education of the driving public in sharing the responsibility for safety with truck drivers. Only then will we see an improvement in motor carrier safety.